

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 83 OF 2021

PATEL MASIRA BI HANIF
VERSUS
THE UNION OF INDIA AND OTHERS

...
Advocate for the petitioner : Mr. Yogesh B. Bolkar
AGP for the respondent – State : Mr. S.B. Yawalkar
Standing Counsel for the respondents nos. 1, 2 and 4 : Mr. R.R. Bangar
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 27 SEPTEMBER 2022

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate Mr. Bolkar for the petitioner, Mr. Yawalkar, AGP and Mr. R.R. Bangar for the respondents nos. 1, 2 and 4.

2. The petitioner is seeking direction to the respondents to accommodate her in the Government Medical College at Aurangabad for MBBS Course under the Central Pool Quota earmarked for Pradhan Mantri Rashtriya Bal Puraskar awardees (which was earlier being called as National Child Award for exceptional achievements).

3. Mr. Bolkar would submit that the petitioner appeared for NEET-2020 examination and secured 295 marks out of 720. The respondent no. 7 did not appear for the examination. However, she

(respondent no. 7) applied for admission on the basis of her earlier score of 227 marks which she had scored in the NEET-2019 examination. The petitioner, respondent no. 5 and respondent no. 7 all are covered by the category of Pradhan Mantri Rashtirya Bal Puraskar but the respondent no. 5 merely secured 219 marks out of 720 marks. The petitioner had given preference for admission from that quota in the Government Medical College at Aurangabad. She was also selected from Central Pool Quota for the academic year 2020-2021. However, fresh applications were invited by the respondent no. 2 - the Ministry of Women and Child Development. The petitioner once again responded to the advertisement and submitted her application. She was duly selected and was offered admission in A.N. Magadh Medical College, Gaya, Bihar.

4. Mr. Bolkar would submit that though the respondent no. 7 had not appeared for NEET-2020 examination and respondent no. 5 had secured less marks than the petitioner, ignoring her merit respondent no. 7 was allotted the Government Medical College at Aurangabad. There was a serious mistake committed by the respondents in ignoring the fact that respondent no. 7 had not appeared for NEET-2020 examination and still ignoring petitioner's merit and her preference, she (respondent no. 7) was given admission in the Government Medical College at Aurangabad. He, would,

therefore, submit that the respondents no. 1 and 2 be directed to accommodate the petitioner in the Government Medical College at Aurangabad from the afore-mentioned quota instead of Medical College at Gaya.

5. The petitioner has also sought to challenge respondent no. 7's admission and has even claimed compensation for the error committed by the respondents.

6. The learned AGP and the learned Advocate for the respondents nos. 1, 2 and 4 would point out that so far as the admission granted to respondent no. 7 in the Government Medical College at Aurangabad, it was granted pursuant to the order dated 19-06-2020 passed by the Delhi High Court in her Writ Petition (Civil) no. 10722 of 2019, which was later on confirmed by the Division Bench of the Delhi High Court by dismissing the respondent no.1's Letters Patent Appeal no. 329 of 2020 on 21-12-2020. They would also point out that even the order of the Division Bench of the Delhi High Court was challenged before the Supreme Court but the Supreme Court refuted it. They would, therefore, submit that so far as the legality of the admission granted to respondent no. 7 is concerned, since the decision has reached finality upto the Supreme Court, this Court cannot undertake any scrutiny.

7. Learned advocates and the learned AGP would further point out that even the petitioner had approached the Supreme Court by filing Special Leave Petition (Civil) no. 8582 of 2021 challenging the selfsame order passed by the Division Bench of the Delhi High Court in the Letters Patent Appeal preferred by the Union against the respondent no. 7 herein. All the points being agitated by the petitioner now, were specifically raised by the petitioner in her Special Leave Petition (Civil) no. 8582 of 2021. By common order dated 11-03-2022, both these SLPs; one filed by the Union of India and the other by the present petitioner, were dismissed and, therefore, even for this reason, this Court cannot now trade upon and decide the merits of the present matter.

8. So far as the challenge to the admission granted to respondent no. 7 is concerned, the admission was granted pursuant to the order of the Delhi High Court which was confirmed by the Supreme Court.

9. The matter does not end here. Even the petitioner had made an attempt to assail the very same order of the Delhi High Court by preferring Special Leave Petition raising all the grounds which she has raised in the present petition. Unfortunately for her, even her Special Leave Petition has been dismissed by common order passed in both these SLPs on 11-03-2022.

10. Pertinently, as can be seen from the memo of the Special Leave Petition preferred by the petitioner, the claim regarding compensation was also raised by her in that petition.

11. We are afraid, all the grounds which the petitioner is raising before us, were raised by her and were turned down by the Supreme Court.

12. In view of such peculiar state of affairs, we cannot venture into and decide the petition. Nothing survives for our consideration. The petition is dismissed.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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